

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)
vs.) **CRIMINAL ACTION 07-00391-KD-C**
)
TERRY ANN FREDRIKSEN,)
Defendant/Petitioner.)

ORDER

This matter is before the Court on Defendant Fredriksen's Rule 60(b)(6) motion for relief from the criminal judgment (Doc. 56), Motion to Proceed *In Forma Pauperis* (Doc. 57), and Motion to Proceed *Pro Se* (Doc. 58).

In her Rule 60(b)(6) motion, Fredriksen contends that the Court should set aside the criminal judgment by reducing the sentence issued on April 18, 2008 due to: 1) the court's miscalculation of her points; 2) the court's improper aggregation of the amount of methamphetamine involved in her case; and 3) an incorrect PSI. (Doc. 56). Rule 60(b) provides that a Court may relieve a party from judgment in a limited number of circumstances including: "any other reason that justifies relief."

"Rule 60(b) [] does not provide for relief from judgment in a criminal case." United States v. Mosavi, 138 F.3d 1365, 1366 (11th Cir. 1998); United States v. Fair, 326 F.3d 1317, 1318 (11th Cir. 2003). See also Gonzalez v. Crosby, 545 U.S. 524, 528-536 (2005) (explaining the difference between a true Rule 60(b) motion (which may proceed) and one raising "claims" for relief (which should be treated as a second or successive petition)). Fredriksen seeks relief from her criminal judgment (including the sentence issued on April 18, 2008) (Doc. 43, 45), not from the March 3, 2010 judgment dismissing her Section 2255 petition as time barred (Docs. 54, 55). Thus, Fredriksen's Rule 60(b)(6) motion is construed as a second or successive habeas petition. Gonzalez,

supra. Additionally, as Fredriksen has been denied Section 2255 relief she must first obtain authorization from the Eleventh Circuit before filing a second successive petition.¹ Fredriksen has not done so.

Accordingly, Fredriksen's Rule 60(b)(6) motion (Doc. 56) is **DISMISSED** as an unauthorized second or successive Section 2255 petition, such that her Motion to Proceed *In Forma Pauperis* (Doc. 57) and Motion to Proceed *Pro Se* (Doc. 58) are **MOOT**.

DONE and **ORDERED** this the **22nd** day of **June 2012**.

s/ Kristi K. DuBose
KRISTI K. DUBOSE
UNITED STATES DISTRICT JUDGE

¹ Rule 9 of the *Rules Governing Section 2255 Proceedings for the United States District Courts* (a party must obtain authorization from the court of appeals before presenting a second or successive motion).